



WP.No.10168 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.10168 of 2013

and

M.P.Nos.1/2013 & 1/2014

The Managing Director,
Tamil Nadu Magnesite Limited,
5/63, Omalur Road,
Jagir Ammapalayam,
Salem-2.

... Petitioner

Vs

1.The Presiding Officer,
Central Government Industrial Tribunal-
cum-Labour Court,
I Floor 'B' wing,
26, Haddows Road,
Shastri Bhavan,
Chennai-600 006.

2.The General Secretary,
Salem, Dharmapuri, Namakkal, Erode Mavatta
Pokuvarathu Matrum Podhu Thozhilalar Sangam
21, Vivekananada Street,
Salem-636 007.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in I.D.No.22 of 2009 on the file of Central Government Industrial Tribunal-Cum-Labour Court, I Floor 'B' wing, 26, Haddows Road, Shastri Bhavan,



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Chennai-600 006, the first respondent herein, quash the award dated 09.08.2012 passed therein.

For Petitioner : Mr.M.R.Raghavan
For R2 : Ms.H.Nandhini
for Mr.R.Krishnasamy

ORDER

This Writ Petition has been filed challenging the Award dated 09.08.2012 passed in I.D.No.22 of 2009 by the first respondent, thereby ordered that the HMV drivers shall be given salary and other benefits on par with LMV drivers from the date of taking over of the company by the Government of Tamil Nadu but the payment of arrears is restricted from the date of reference.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent and perused the materials available on record.

3. The case of the petitioner is that Magnesite Mines was initially owned by a company called Salem Magnesite Private Ltd and carried out the mining operations on the basis of lease granted by the Government of Tamil Nadu. However, the said lease was not extended in



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the year 1979 and the mining operations were taken over by the petitioner. All the employees were also absorbed by the petitioner. The Salem Magnesite Private Ltd., had two categories of drivers viz., those working in mines and those working in the office. The drivers working in the mines belonged to the workmen category and driver working in the office belonged to the staff category. The drivers in the workmen category were receiving wages on the basis of wage settlement entered into between the various unions and the management under the provisions of the Industrial Disputes Act. They were also receiving package which were periodically revised by virtue of various settlements. The settlements provided not only the wage component but also various benefits comprehensively.

4. While being so, the drivers in the workmen category raised industrial dispute alleging that they were paid less wages than the drivers in the staff category. It was not settled and the dispute was referred to the first respondent. The drivers in the category of workmen absorbed from the category of helpers in workshop and also from Employment Exchange. The drivers in the staff category were directly recruited. The drivers in the staff category were paid on the basis of the respective



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Notification by the Government. The nature of work in so far as the drivers of both categories would not be same. The staff category drivers have to work beyond any fixed hours without any overtime wages. They are not having the benefits given to the workmen drivers under the settlement.

5. Even then the Tribunal, without considering the settlement entered between the workmen and the employer, without discussing any of the documents produced by the petitioner as well as the workmen, mechanically passed order to treat the workmen drivers on par with the staff drivers.

6. The second respondent Union submitted that both the categories are drivers and as such, they are also doing the same work. Hence, they are entitled for same salary for the same work as contemplated under Section 39(d) of the Constitution of India.

7. On perusal of the records revealed that the petitioner had marked Exs.M1 to M23 and the second respondent marked Exs.W1 to W15. Both sides, they filed the settlement entered between the workmen



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and the employer petitioner under Section 123 of the Industrial Dispute Act and also salary slips of the workmen as well as the staff drivers.

Though the workmen received salary as per their settlement entered from time to time, they were not paid salary and par with the LMV Drivers. The workmen drivers are employed in mining operation , though they are the backbone of the establishment, their scales of pay and other benefits are less compared to staff drivers. It is totally unjustified for the one and the same categories of employees, whose case is espoused herein.

8. In fact, in the work carried out irrespective of the category differentiation drivers belonging to staff category known as LMV drivers operate only light motor vehicles like Car, Jeep, etc., Whereas, the workmen drivers called as HMV drivers are operating Heavy Motor Vehicles such as Water Lorry, Explosive Van, School/Staff Bus, Dippers, Tumbers and other earth moving equipments. They are most skilled and doing hazardous work. Therefore, the denial of same salary is violative of Articles 14, 16 and 21 of the Constitution of India. Sub-classifying them into such two categories is without any rational nexus and treating equals as un-equals arbitrarily and discriminatorily. In terms of added skill and hard labour while the HMV drivers were paid better they are



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actually deprived of equal treatment and benefits. It is also opposed to the doctrine of equal pay for equal work and opposed to the provisions of Equal Remuneration Act and Article 39(d) of the Constitution of India.

9. The only contention raised by the learned counsel for the petitioner that the petitioner though marked so many documents, those were not discussed by the first respondent. On perusal of the documents produced by the petitioner, are all settlement entered between the workmen and the employer. They also produced pay slips of the LMV drivers as well as HMV drivers.

10. On perusal of those documents, though the workmen and the employer had entered into settlement from time to time, the workmen drivers are getting low salary than the LMV drivers. Therefore, the first respondent rightly ordered that the HMV drivers shall be given other benefits on par with LMV drivers. Therefore, this Court finds no infirmity or illegality in the Award dated 09.08.2012 passed in I.D.No.22 of 2009 by the first respondent and the writ petition is devoid of merits and it is liable to be dismissed.

11. Accordingly, this Writ Petition stands dismissed. The



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petitioner is directed to settle all the arrears if any to the second respondent within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index:Yes/No
Internet:Yes/No

To

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G.K.ILANTHIRAIYAN,J.



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